

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMIE WILLIAM WILSON,

Defendant-Appellant.

UNPUBLISHED

January 24, 2012

No. 299791

Calhoun Circuit Court

LC No. 2010-000930-FH

Before: WILDER, P.J., and HOEKSTRA and BORRELLO, JJ.

PER CURIAM.

Defendant was convicted by a jury of first-degree child abuse, MCL 750.136b(2); second-degree child abuse, MCL 750.136b(3); and third-degree child abuse, MCL 750.136b(5). Defendant appeals as of right. We affirm.

On November 12, 2009, the minor child, who was 17 months old at the time, was brought to the emergency room by her grandmother. The minor's injuries included bright red and purple bruising around her right eye, cheek, ear, into the ear, and into her scalp. There was greenish-yellow bruising on her forehead and left cheek. The right side of her face was swollen, and the eye was nearly swollen shut. The physician assistant who examined the minor in the emergency room testified she had never before seen a child with that extent of injuries.

Dr. Stephen Guertin, an expert in the area of child abuse, opined that the injuries were serious. He testified that although some of the injuries could have been accidental, many were typical of blows and it was his opinion the child was abused. Dr. Randall Haugen, an expert in psychology, testified that the minor showed many symptoms of post-traumatic stress disorder, and the abuse caused these symptoms.

Police interviewed defendant four times. Throughout the interviews, he gave different explanations for how the minor was injured. Some of the explanations were that she fell against the bed, she got hurt when her four-year-old brother was playing, a bottle came over a privacy fence at a gas station and hit the child in the mouth, and she was hurt by the dog. Eventually, defendant admitted he had dropped the child once and backhanded the child on two occasions. He also admitted that, on one of those occasions, he backhanded the child three times. During all the incidents, the minor's mother was not present.

On appeal, defendant, while acknowledging that he struck the child and caused injuries, argues that there was insufficient evidence for a rational jury to conclude he had knowingly or intentionally caused serious physical or mental harm to the minor child. In the alternative, defendant argues his motion for directed verdict should have been granted. We disagree with both of defendant's arguments.

"In short, when determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *People v Wolfe*, 440 Mich 508, 516; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992) (citations omitted). Additionally, "[t]he standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict. The scope of review is the same whether the evidence is direct or circumstantial." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

"A challenge to the trial court's decision on a motion for a directed verdict has the same standard of review as a challenge to the sufficiency of the evidence." *People v Lewis (On Remand)*, 287 Mich App 356, 365; 788 NW2d 461 (2010), citing *People v Aldrich*, 246 Mich App 101, 122-123; 631 NW2d 67 (2001). The difference is that only the evidence presented before the motion for a directed verdict was made is considered. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

To support a conviction of first-degree child abuse, the prosecution must show that the defendant "knowingly or intentionally cause[d] serious physical harm or serious mental harm to a child." MCL 750.136b(2). The defendant had to intend to cause serious mental or physical harm or had to know that serious mental or physical harm would be caused by his actions. *People v Maynor*, 470 Mich 289, 295-296; 683 NW2d 565 (2004). "An actor's intent may be inferred from all of the facts and circumstances, . . . and because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient." *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998) (citations omitted).

Viewing the evidence in a light most favorable to the prosecution, we find that there was sufficient evidence to permit the jury to find that defendant had the required intent for first-degree child abuse. First, the injuries were extensive, were inflicted on more than one occasion, and were to a greater extent than the physician assistant who examined the child in the emergency room had ever seen. The severe nature and extent of a victim's injuries is sufficient evidence from which a jury can make the requisite inference regarding a defendant's intent. See *People v Mills*, 450 Mich 61, 71; 537 NW2d 909 (1995) (evidence of the nature and scope of the victim's injuries is probative of an intent to kill). Second, given that defendant had previously injured the child by striking her, a rational juror could infer that when defendant struck the child again around November 12, 2009, he was knowingly causing serious harm to the child on that date. Taken as a whole, then, the evidence was sufficient for the jury to find that the elements of first-degree child abuse were proven beyond a reasonable doubt. For the same reasons, defendant's motion for directed verdict was properly denied.

Affirmed.

/s/ Kurtis T. Wilder

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello